

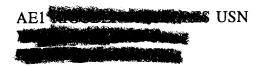
DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC

Docket No: 00132-99

8 June 2000



Dear Petty Off

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 28 February 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Specifically regarding the contested evaluation for 31 March to 15 November 1998, the Board noted you concede your department head and commanding officer did review your input after your ranking board, but concluded your promotion recommendation would not change. The Board was unable to find your promotion recommendation would have been more favorable, had your input been considered earlier, nor could they find that you rated a better recommendation. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER Executive Director

Enclosure



DEPARTMENT OF THE NAVY NAVY PERSONNEL COMMAND 5720 INTEGRITY DRIVE MILLINGTON TN 38055-0000

1610 PERS-311 28 FEB 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: AE1 USN,

Ref: (a) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

- 1. Enclosure (1) is returned. The member requests modification or removal of the performance reports for the periods 2 September 1997 to 30 March 1998 and 31 March 1998 to 15 November 1998.
- 2. Based on our review of the material provided, we find the following:
- a. A review of the member's digitized record revealed the reports in question to be on file. The member signed both reports indicating his desire not to submit a statement. Per reference (a), Annex S, paragraph S-8, the member has two years from the ending date of the report to submit a statement if desired. A statement for either report has not been received from the member.
- b. The report for the period of 2 September 1997 to 30 March 1998 is a "Detachment of Individual" report, submitted on the occasion of the member's transfer from VFA-125, due to being fit for full duty. The member feels that VFA-125 could not fairly evaluate his performance since he had only been onboard for a period of six months during the reporting period. The member also feels the report is unjust due to his previous command, VFA-147 submitting a Performance Information Memorandum (PIM) without assigning any trait grades or promotion recommendation.
- c. The member further states that the report for the period 31 March 1998 to 15 November 1998 is unjust due to the evaluation input in which he submitted not being reviewed by his chain of command.

Subj: AE: USN

- d. Since the member was assigned TEMADD for limited duty to VFA-125, VFA-125 had the reporting senior authority and was responsible for submitting an evaluation upon the member's transfer. It is appropriate for the reporting senior to consider input from the member and the member's chain of command in developing a performance report. In whatever manner the evaluation is developed, it represents the judgement and appraisal of the reporting senior.
- e. Reference (a), Annex M, does not require commands to assign trait grades or promotion recommendations when submitting PTM's.
- f. The marks, comments, and recommendations are at the discretion of the reporting senior. They are not routinely open to challenge.
- g. The member does not prove the reports to be unjust or in error.

3. We recommend retention of both reports as written.

Head, Performance Evaluation Branch